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C O N F I D E N T I A L SECTION 01 OF 02 FREETOWN 000445

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DEPARTMENT FOR AF/W (JHUNTER), S/WCI (TANDERSON), L-AN
(OHAHS)
USUN (MSIMONOFF)

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TAGS: PREL PGOV KAWC KJUS SL
SUBJECT: ATTORNEY GENERAL STAKES HIS CLAIM ON SPECIAL COURT

Classified By: A/DCM Amy LeMar for reasons 1.4 (b/d)

¶1. (C) Summary: On November 12, A/DCM and the British High Commissioner met with Attorney General Abdul Serry-Kamal to discuss issues related to the Special Court. Namely, the meeting was called to address an exchange of letters between the Special Court Management Committee (MC) and the Government of Sierra Leone (GoSL), which displayed contrasting views on where the residual mechanism should be located. The GoSL believes that the residual mechanism, which will oversee a range of issues following the closure of the Court, including the maintenance and security of the archives, should be placed in Sierra Leone. The MC, however, has determined that the GoSL does not have the capacity to absorb it given its current infrastructural limitations. Further, the Court's independence and decisions, even after its mandate ends, could be subject to interference if the residual mechanism becomes a branch of the Sierra Leone judiciary. The GoSL's letter stated plainly that they expect the residual mechanism and archives to stay in Sierra Leone, with significant, long-term donor support. The joint US-UK message relayed to the AG was that the "well is dry" in terms of funding these initiatives in-country. The AG's dismissive response indicated that he believes donors will provide the funds if pushed. His further, vehement comments made clear that he believes that the Court should never have existed, that its mandate has ended, and that all assets, from the site to the residual mechanism, are the property of Sierra Leone. End Summary.

"I KNEW YOU WERE COMING"

¶2. (C) The AG greeted High Commissioner and A/DCM by saying "I knew you were coming...I knew the diplomats would come (about the letter)." The AG asserted that the MC has "no authority" to make decisions about the residual mechanism and archives, and that the tone of the Committee's letter was dictatorial. The High Commissioner stated the UK's stance, which is that a "mutually agreeable and affordable solution" must be found. He also said that the money for the Court is drying up, and that his government is only willing to provide the absolute minimum to support its long-term, remaining issues. A/DCM confirmed that the USG and other donors will not fund the residual mechanism in-country, and that housing it elsewhere could enable the international community to focus their assistance on the GoSL's development priorities. The AG made clear that he believes funding to support the residual mechanism in Sierra Leone will come, and seemed amused at any other assertions.

¶3. (C) The High Commissioner asked the AG how to move forward from here, and he said that further negotiations between the MC and the GoSL are needed. The Special Court, he said, is a

partnership, and the MC's letter showed that they are ignoring the spirit of that partnership. Despite noting the need for further discussion with them, he then dismissed the MC outright, saying that "their mandate ends in Freetown now that the trials have ended in Freetown." The AG also said that the MC is "leaving only a skeleton for Sierra Leone" by suggesting that the archives be housed outside the country, and dismissively interrupted the A/DCM when she pointed to the section of the MC's letter that favorably supported the possible return of the archives in the future.

THE AG'S BIAS

¶4. (C) The AG made his personal opinions about the Court clear: he believes that the GoSL should never have agreed to the tribunal in the first place. He also disagreed with the recent transfer of the prisoners to Rwanda, saying that they should have remained in Sierra Leone, "but I guess the President promised (they would be removed)." When the ongoing work of the Court in The Hague was mentioned, the AG chuckled and said that the trial's outcome has already been determined, and that Taylor will definitely be convicted.

THE UK PERSPECTIVE

¶5. (C/NF) The High Commissioner had just come from a meeting with the Chief Justice, and said that her feathers were ruffled by the perceived tone of the MC's letter, but that

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she would likely acquiesce to their position once asked for her opinion. He believes that she needs a forum in which to be respectfully persuaded. The High Commissioner was conciliatory in his meeting with the AG, and repeatedly stated the need for a "mutually agreeable and affordable solution." He appeared to be pandering to the AG's ego, and gave the appearance that there is room on both sides for further negotiation: this strategy could run the risk of creating false expectations for the GoSL. After the meeting ended, he and the A/DCM spoke briefly about moving forward, and together concluded that an executive-level demarche will be required, as well as a visit from members of the MC and possibly UN/OLA. The High Commissioner is concerned that the President will ultimately support the position taken by his legal counsel, though he hopes that Koroma is a savvy enough politician to listen to reason.

COMMENT

¶6. (C) The AG's general dislike for the Special Court is well-known, as are his views that his friends, such as Issa Sesay, should never have faced justice. While he played the role of insulted government minister being patronized by the international community, his current interest in the Court is more likely based on self-interest: if donors support the residual mechanism in Sierra Leone, he will be able to access any attached funding and also possibly find legal loopholes through which to interfere with Court decisions. While the AG seems to enjoy muddying the waters wherever and whenever possible, either to make mischief or discredit the President, his stubborn stance on the residual mechanism and determination to make any negotiations as challenging as possible are firmly rooted in his position that the Court should never have existed in the first place. Since it does, though, he sees no reason not to attempt to profit from it.
End Comment.

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